

ORDINANCE NO. _____, SERIES 2009

AN ORDINANCE AMENDING LOUISVILLE METRO CODE OF ORDINANCES (LMCO) CHAPTER 115 “REGULATIONS GOVERNING SPECIFIC BUSINESSES” RELATING TO VENDORS, PEDDLERS AND SOLICITORS.

SPONSORED BY: Councilwoman Madonna Flood, District 24

BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:

SECTION I: LMCO Sections 115.350 – 115.357 are hereby amended and new sections 115.358 – 115.368 added as follows:

§ 115.350 ~~VENDOR PERMIT.~~ VENDORS AND PEDDLERS

~~—(A)— Subject only to the exception provided in subsection (B) below, it shall be unlawful for any person, firm, or corporation, to sell, vend, promote, dispense, distribute, or otherwise convey, any items or merchandise, or offer to do any of the above acts either on foot, from a cart, stand, or kiosk, or by means of a machine or motor vehicle, whether mobile or not on the public streets, sidewalks, alleys, thoroughfares, right of ways or other public places within Louisville Metro.~~

~~—(B)— The Director of the Department of Codes and Regulations, after consultation with the Director of Public Works and Assets, is authorized to designate certain public places within Louisville Metro which the Director determines to be suitable from the standpoint of the health and safety of the public and proper from the standpoint of site characteristics as locations in which activities as set forth in subsection (A) above may be permitted. On such designation, the Director of Codes and Regulations or a designated representative may issue permits allowing specific persons, firms, or corporations to utilize such locations for those activities as set forth in subsection (A) of this section.~~

~~—(C)— Permits from Codes and Regulations are not required for activities, set forth in subsection (A), which occur solely on or within park lands or in the right of ways of a parkway. A permit for use of park lands or in the right of ways of a parkway for the activities set forth in subsection (A) must be obtained from the Director of Metro Parks prior to performing such activities.~~

~~—(D)— Any person, firm or corporation wishing to perform activities set forth in subsection (A) of this section that wants to operate in areas regulated by the Department of Codes and Regulations, and within Metro parks and parkway right of ways, must make application and obtain a permit from both the Director of Metro Parks and the Department of Codes and Regulations prior to such activities.~~

(A) **DEFINITIONS.** The following terms and definitions shall be used in the administration of this chapter:

(1) **"Itinerant Vendor,"** shall mean any person, firm, partnerships or corporation, whether as owner, agent, consignee, or employee, whether a resident of the Louisville Metro or not, who engages in a business of selling and delivery of goods, wares, food or merchandise of any kind or description, who conducts such a business outside of a permanent structure affixed to real property. A person, firm or corporation so engaged shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such temporary business in connection with, as part of, or in the name of any local dealer, trader, merchant or auctioneer.

(2) **"Stationary Vendor,"** means an itinerant vendor who conducts business from a vehicle, other conveyance or temporary stand upon privately or publicly owned property, but not from a mobile vehicle or conveyance traveling on a public street, sidewalk, alley or public way within Louisville Metro.

(3) **"Mobile Vendor,"** means an itinerant vendor who conducts business from a vehicle or other conveyance traveling upon public streets, sidewalks, alleys, or other public ways within Louisville Metro.

(4) **"Peddler,"** means any person who goes from house to house or from business to business in Louisville Metro selling or taking orders for or offering to sell or take orders for goods, wares and merchandise for present or future delivery or for services to be performed immediately or in the future whether such person has, carries or exposes a sample of such goods, wares and merchandise or not and whether he/she is collecting advance payments on such sales or not.

(5) **"Public Property" or "Public Place"** means any place, property or premises dedicated to public use, owned by Louisville Metro, occupied by Louisville Metro as a lessee, or occupied by Louisville Metro by reason of an easement, including, but not limited to streets, parks or parking lots so owned or occupied.

(6) **"Private Property",** means all property not included within the definition of public property or public place.

§ 115.351 LICENSE REQUIRED.

A) It shall be unlawful for any vendor or peddler to engage in business within Louisville Metro except when licensed as a stationary or mobile vendor or peddler as defined in §115.350 (A) and in compliance with the provisions of this chapter.

B) Unless otherwise exempted, every vendor or peddler, before commencing business within Louisville Metro, shall make application in writing and under oath to the Department of Codes and Regulations and shall pay the required license fees.

C) A separate license shall be required for each location of any stationary vendor and for each vehicle or other conveyance engaged by a mobile vendor.

~~The following are excepted from the provisions of §§ 115.350 and 115.356:~~

~~—(A)— The sale of newspapers by carriers in person or on foot.~~

~~—(B)— The sale of newspapers by vending machines, provided that the location and design of all such machines is approved by the Director of Public Works and Assets.~~

~~—(C)— Persons who are engaged in selling or soliciting for the sale of goods at a trade fair, flea market, or sales exhibition sponsored by a sales exhibition promoter or are so engaged on property owned or operated by the State Fair Board or Commonwealth of Kentucky.~~

§ 115.3512 LICENSE EXCEPTIONS.

The provisions of this chapter shall not be construed to apply to the following:

A) The selling of personal property at wholesale to dealers in such articles; to newspaper carriers or newspaper vendors (provided that the location and design of all vending machines is approved by the Director of Public Works and Assets); to merchants or their employees in delivering goods in the regular course of business; to drug retail persons calling on physicians, pharmacists, veterinarians and hospitals; to vendors of milk and other products distributed or sold to regular customers on established routes; or to sales by farmers and gardeners of the produce of their farms and gardens.

B) The selling or soliciting for the sale of goods at a trade fair, flea market, or sales exhibition sponsored by a sales exhibition promoter or are so engaged on property owned or operated by the State Fair Board or Commonwealth of Kentucky.

C) The selling or offering for sale or distribution from interior private pedestrian circulation areas of shopping centers or malls of products to pedestrians which are traversing such areas or patrons of retail stores.

D) No license is required for those persons operating yard sales, garage sales, bake sales or other similar types of activities from their own residentially zoned property, or from property on which they legally reside or from property owned by a charitable organization. These activities must be temporary in nature and must comply with all Louisville Metro ordinance provisions and land development code provisions. (See Land Development Code Section 4.4.4 Garage Sales)

E) No license is required for any member or members of a religious, charitable, health, welfare, educational, political or youth service organization selling or offering to sell goods or services to raise funds for the work of such organization and for no other purpose. The Director of the Department of Codes and Regulations may require any organization or individual claiming exemption to appear and present evidence in support of said membership and purpose.

§ 115.353 PERMIT REQUIREMENTS FOR PUBLIC PLACE VENDING

(A) The Director of the Department of Codes and Regulations, after consultation with the Director of Public Works and Assets, is authorized to designate certain public places within Louisville Metro which the Director determines to be suitable from the standpoint of the health and safety of the public and proper from the standpoint of site characteristics as locations in which vending activities may be permitted. Any person, firm, or corporation wishing to perform vending activities on or within such designated areas, must make application and obtain a permit from the Department of Codes and Regulations prior to performing such activities.

(B) Permits for vending activities which occur solely on or within Metro park lands or on avenues, streets, roads, drives or sidewalks adjacent to the boundaries of a Metro park must be obtained from the Director of Metro Parks prior to performing such activities. The Louisville Extreme Park is a Metro park and is specifically included for purposes of this provision as requiring a permit for vending activities to be obtained from the Director of Metro Parks for

vending activities at the park or vending activities conducted on East Witherspoon, North Clay Street, North Hancock Street or North Franklin Street.

(C) Any person, firm or corporation wishing to perform vending activities as set forth in this section that wants to operate in areas regulated by the Department of Codes and Regulations, and within Metro parks and parkway right-of-ways, must make application and obtain a permit from both the Director of Metro Parks and the Director of the Department of Codes and Regulations prior to such activities.

(D) The Director of the Department of Codes and Regulations and/or the Director of Metro Parks may impose conditions on any issued permit, as it deems necessary for health and safety, and/or to mitigate the impact of vending on an area and may restrict or prohibit vending in certain locations. The Director of the Department of Codes and Regulations and/or the Director of Metro Parks may limit the number of vendors at any one location or within an area, or limit the number of operators, sales persons, or others engaged in the act of vending at the requested or approved location.

(E) As a condition of issuance, the vendor agrees to indemnify, hold harmless, and defend the Louisville Metro Government and its representatives against liability and/or loss arising from activities connected with and/or undertaken pursuant to the permit. Louisville Metro is not liable for any business loss, property loss, or other damage that may result from use of the permit, or suspension or revocation of the Permit, and no vendor shall maintain any claim or action against Louisville Metro, its officials, officers, employees, or agents on account of any suspension or revocation.

(F) Any permit issued under this chapter shall be posted conspicuously at the place of business authorized therein.

(G) No permit shall be transferable nor shall such permit authorize the activities permitted by any person other than the person to whom it is issued.

(H) The permit issued under this section shall be valid for the time period specified thereon. Re-application shall be required upon expiration of said permit if the applicant wishes to continue such activity.

(I) Unless otherwise exempted, all applications for permits shall be accompanied with the required fee(s) as specified in the schedule of fees established by the Director of the Department of Codes and Regulations.

115.3534 PERMIT FEE EXCEPTIONS.

A) ~~(D) (4)~~ The following organizations and their representatives shall comply with all provisions of ~~§ 115.350~~ § 115.352 as to location on public property or public areas places, provided, no permit fee shall be charged them if all proceeds from sales are returned to their organizations:

(1a) Organizations holding valid charitable solicitation permits.

(2b) Bona fide publicly recognized evangelical, missionary, or other religious organizations.

(3e) Any college, university, or school accredited by any state department of education.

(4d) Any bona fide publicly recognized national or regional youth organization.

(5e) Any community or neighborhood group with nonprofit status or the Director of the Department of Codes and Regulations' approval.

(B) ~~(2)~~ The Director may require any organization or individual claiming exemption to appear and present evidence in support of the claim.

§ 115.355 REGULATIONS.

(A) The Director of the Department of Codes and Regulations may set and enforce rules and regulations deemed necessary for the orderly and complete administration of this chapter which are not inconsistent with any of the provisions of this chapter. A copy of the administrative regulations as promulgated by the Director of the Department of Codes and Regulations shall be available for public inspection in the offices of the Department of Codes and Regulations.

(B) The Director of the Department of Codes and Regulations is authorized to establish and promulgate a reasonable schedule and classifications of fees for permits and licenses as shall be issued pursuant to this chapter.

§ 115.356 LICENSE APPLICATION

(A) Any person, firm, or corporation desiring to secure a license as a peddler or vendor shall make written application, under oath, on a form provided by the Department of Codes and Regulations. Such application shall contain at least the following information:

- (1) The name and permanent home address and telephone number and full local address and telephone number of the applicant.
- (2) If not, self-employed, the name, address and telephone number of the employer or parent organization the applicant is representing and copies of credentials or documents verifying that relationship.
- (3) The nature or character of the goods, wares, merchandise or services to be offered by the applicant.
- (4) The place or places where the applicant proposes to engage in business.
- (5) A personal description of the applicant.
- (6) A listing of all criminal convictions of the applicant for the past ten years.
- (7) A statement of whether applicant has previously been denied a license under this chapter or if applicant has had previous license suspended or revoked and, if so, the reasons or the circumstances surrounding the denial, suspension or revocation.
- (8) Applicant must provide proof of his or her tax identification number from the Kentucky State Revenue Cabinet.

(B) In addition to written application, a mobile vendor shall provide the following:

- (1) A copy of applicant's driving record from the Commonwealth of Kentucky or any other State where applicant has resided in the past five (5) years.
- (2) A listing of the vehicle license number, vehicle description, vehicle identification number, vehicle registration papers and proof of insurance of all vehicles from which the applicant proposes to conduct business.

(C) In addition to written application, a stationary vendor on private property shall provide the following:

(1) A notarized written authorization from the business owner to conduct the applicant's business at the place so noted on the application.

(2) A drawing of a scale not greater than 50 feet per inch and not less than 10 feet per inch, which drawing shall depict the following information:

(a) The portion of the property to be occupied by the vending operation;

(b) The portion of the property to be used for automobile parking and the number of automobiles accommodated in said area;

(c) The location of driveways providing ingress and egress to the property;

(d) The location of existing building and structures located on the property noting the use of each building or structure so identified.

(D) Each applicant shall be required to complete the entire application form and abide by any request for information made by the Department of Codes and Regulations under this chapter. The failure to complete the form and provide all requested information may result in denial of the license.

(E) It shall be unlawful for any individual to intentionally provide false information or to intentionally omit requested information on an application for any license or permit governed by this chapter.

(F) Unless otherwise exempted, all applications shall be accompanied with the required fee(s) as specified in the schedule of fees established by the Director of the Department of Codes and Regulations.

§ 115.357 APPLICATION REVIEW

(A) Upon receipt of such license application, the Director of Department of Codes and Regulations shall refer the application to the Louisville/Jefferson County Metro Revenue Commission for its certification that applicant is in compliance with the occupational license tax registration and filing requirements.

(B) The Director of the Department of Codes and Regulations has the authority to deny or revoke any license for the following reasons:

(1) Any felony or misdemeanor conviction for the following offenses:

a. Larceny;

b. Assault;

c. Domestic violence crimes;

- d. Fraud;
 - e. Sex crimes;
 - f. Drug-related crimes;
 - g. Crimes against children and/or vulnerable adults.
 - h. Any other criminal offenses directly related to fitness for a license or permit.
- (2) Unsatisfactory history of traffic violations of an applicant for mobile vendor.
 - (3) Discovery of facts supporting lack of business responsibility or discovery of any legitimate reason that the applicant presents a risk to citizens if permitted to engage in activities as a peddler or vendor.
 - (4) Noncompliance with any applicable Louisville Metro ordinance or regulation provision or State laws, rule or regulation.
 - (5) Any nonpayment of any civil penalties for previous violations of this chapter.

§ 115.3528 ~~PERMIT~~/LICENSE GENERAL STANDARDS.

(A) ~~No vendor's permit or peddler's license shall be transferable nor shall such permit or license authorize the activities permitted or licensed by any person other than the person to whom it is issued.~~

(B) Every person to whom a license is issued shall conform at all times with all applicable Louisville Metro Governmental requirements, including without limitation, public health and safety ordinances and regulations; local zoning codes and regulations; local occupational license tax ordinances and regulations; and any other applicable regulation or code provisions. ~~Every person to whom a vendor's permit or peddler's license is issued shall at all times while engaged in business have the applicable permit, license or badge in their possession.~~

(C) Every person to whom a license is issued shall at all times while engaged in business have the applicable license in their possession and shall produce the same at the request of any Louisville Metro official or at the request of any individual to whom the licensee is exhibiting

his or her goods or services or selling or attempting to sell same. The permit and license period shall begin April 1st of each year and terminate on March 31st of the following year.

(D) Licenses issued under this chapter shall be valid for the time period specified thereon.

Re-application shall be required upon expiration of said license if the applicant wishes to continue such activity.

(E) Issuance of a license under this chapter shall not excuse any license holder from compliance with any other applicable ordinance or law.

§ 115.359 PRIVATE PROPERTY STATIONARY VENDOR STANDARDS.

All vendors licensed under this section shall conform to the following standards:

A) A vendor must be eighteen (18) years or older or if between the age of fourteen (14) and seventeen (17), inclusive, must submit proof of a valid work permit

B) No vendor shall be licensed for a location in a Residential Zoned District or Office District, as defined in the Land Development Code.

C) No vehicle, other conveyance or temporary stand shall be a closer than four hundred (400) feet from any other vending operation, and there shall be a minimum of four hundred (400) feet separation from any residential use or residential zoning district. The distance shall be measured as the shortest distance between the nearest point of the vending facility to the closest residential property line or district.

D) No vehicle, other conveyance or temporary stand shall be located closer than twenty (20) feet from any building or structure on the licensed property or adjoining property.

E) No vehicle, other conveyance or temporary stand shall locate closer than fifty (50) feet from flammable combustible liquid or gas storage and dispensing structures.

F) No vehicle, other conveyance or temporary stand shall locate closer than one hundred (100) feet of a Metro Louisville permitted special event, without the written permission of the event organizers.

G) Vending operations shall provide a minimum of two parking spaces. Vendor shall not locate in any minimum required parking space for other businesses on the site. Parking spaces

may not be shared with other uses on the site. If enough parking cannot be provided, the use may not be located on the site.

H) No vendor shall locate his or her vehicle, other conveyance, or temporary stand within twenty (20) feet of any public right-of-way or within twenty (20) feet of the intersection of any public right-of-way and private driveway.

I) No signs or signage shall be permitted other than that which can be contained on the vehicle, conveyance or temporary stand utilized to sell food or merchandise.

J) No vendor shall utilize music or other noises in the sale of goods or services, which music or noise may be considered to be unreasonably loud, harsh or excessive and in violation of LMCO Section 99.

K) No vendor shall obstruct or cause to be obstructed the passage of any sidewalk, street, avenue, alley or any other public place, by causing people to congregate at or near the place where vending items are being sold or offered for sale.

L) All lighting must be permanently or semi-permanently affixed to the vending facility. No lighting shall be permitted to shine on or into any public right-of-way or other private property, or cause any glare that could be considered a public hazard, nuisance or distraction to vehicular movement, neighboring business operations, or residential uses. No flashing or strobe lightening shall be permitted.

M) All vendors shall place at least one thirty (30) gallon garbage receptacle upon the site of business for customer use.

N) All merchandise, goods, wares or food shall only be displayed or offered for sale from the vendor's vehicle, other conveyance or temporary stand.

O) All vehicles, other conveyances or temporary stands shall be equipped with at least one 2A-40 BC fire extinguisher.

P) At the conclusion of business activities the vendor shall clean all debris, trash and litter generated by the vendor's business activities.

Q) No portion of a vendor's inventory, sales equipment, or any other structure or equipment used in the sales or solicitation process shall be left overnight upon any unenclosed portion of any lot or site within Louisville Metro.

§ 115.360 MOBILE VENDOR STANDARDS. All mobile vendors licensed under this chapter shall conform to the following standards:

A) A vendor must be eighteen (18) years or older or if between the age of fourteen (14) and seventeen (17), inclusive, must submit proof of a valid work permit.

B) No mobile vendor shall sell or vend from his or her vehicle or conveyance within one thousand (1000) feet of any public or private school grounds during the hours of regular school session, classes, or school related events in said public or private school, except when authorized by said school.

C) No mobile vendor shall sell or vend from his or her vehicle or conveyance within three hundred (300) feet of the entrance to any business establishment offering as a main featured item or items similar products for sale which is open for business.

D) No mobile vendor shall sell or vend from his or her vehicle or conveyance within three hundred (300) feet of any restaurant, cafe, or eating establishment which is open for business.

E) No mobile vendor shall locate closer than one hundred (100) feet of a Metro Louisville permitted special event, without the written permission of the event organizers.

F) No mobile vendor shall park, stand, stop or allow a vehicle to remain in any place than is necessary to transact immediate business. In no event shall the operation stand longer than fifteen (15) minutes in any given location. At the expiration of the fifteen (15) minutes, a mobile vendor must begin moving to a location at least two hundred fifty (250) feet from the first location.

G) No vendor shall utilize music or other noises in the sale of goods or services, which music or noise may be considered to be unreasonably loud, harsh or excessive and in violation of LMCO Section 99.

H) No mobile vendor shall conduct business within three hundred (300) feet of any hospital, or building used for religious worship when services are being conducted therein.

I) All vehicles shall be maintained and kept in good operating order and visual appearance, including the removal of graffiti.

J) No mobile vendor shall conduct business so as to violate the traffic and sidewalk ordinances of Louisville Metro as now in effect or hereafter amended.

K) No mobile vendor shall locate his or her vehicle or other conveyance in such a manner as to cause a traffic hazard.

L) No mobile vendor shall obstruct or cause to be obstructed the passage of any sidewalk, street, avenue, alley or any other public place, by causing people to congregate at or near the place where vending items are being sold or offered for sale.

M) All lighting must be permanently or semi-permanently affixed to the vehicle. No lighting shall be permitted to shine on or into any public right-of-way or other private property, or cause any glare that could be considered a public hazard, nuisance or distraction to vehicular movement, neighboring business operations, or residential uses. No flashing or strobe lightening shall be permitted.

N) At the conclusion of business activities at a given location the mobile vendor shall clean all the public way surrounding his or her vehicle of all debris, trash and litter generated by the vendor's business activities.

O) All vehicles or other conveyances shall be equipped with at least one 2A-40 BC fire extinguisher.

P) All mobile vendors shall conclude daily business activities at sunset.

§ 115.361 PEDDLER STANDARDS.

A) A peddler must be eighteen (18) years or older or if between the age of fourteen (14) and seventeen (17), inclusive, must submit proof of a valid work permit.

B) A peddler shall conduct himself at all times in an orderly and lawful manner.

C) No peddler shall enter a home, residence, apartment complex or business under pretenses other than for peddling.

D) No peddler shall engage or attempt to engage in the business of peddling at any home, residence, apartment complex or business that prominently displays a "No Peddlers", "No Solicitors", or "No Trespassing" sign or any other similar sign that communicates the occupants' desire to not be contacted by peddlers.

E) No peddler shall remain in a home, residence, apartment complex or business or on the premises thereof after the owner or occupant thereof has requested any such person to leave.

- F) All orders taken by a peddler shall be in writing in duplicate stating the name as it appears on the license and address of both the peddler and his or her employer, the terms of the order, the amount paid in advance, and one copy shall be given to the purchaser.
- G) No peddler shall engage or attempt to engage in the business of peddling or soliciting prior to 9:00 a.m. or one half hour before official sunset time, or at any time on a Sunday or on a state or national holiday.
- H) This chapter is not the exclusive method of regulating peddlers or solicitors.

§ 115.362 HEALTH REGULATION. All vendors or peddlers selling food and/or drinks which are not pre-packaged shall obtain a permit from the Louisville Metro Department of Health before a license will be issued and shall comply with all laws, rules and regulations regarding food handling, and all vehicles used for the sale of food shall comply with all the laws, rules and regulations respecting such vehicles as established by the Louisville Metro Department of Health and/or as set forth in Louisville Metro Code of Ordinances

§ 115.363 AUTHORITY TO SALE AND UNAUTHORIZED USE OF A REGISTERED TRADEMARK.

(A) All vendors or peddlers shall have lawful authority to possess and to sell any and all wares, services, goods or merchandise offered for sale.

(B) It shall be unlawful for any person to knowingly, without the consent of the registrant, to:

(1) Sell, or offer for sale or possess, with intent to sell, any advertising, goods or services containing any reproduction, counterfeit, copy or colorable imitation of a mark registered under KRS 365.560 through KRS 365.625, or under 15 USC Section 1051 through 15 USC Section 1127; or,

(2) Reproduce, counterfeit, copy or colorably imitate any such mark and apply such reproduction, counterfeit, copy or colorable imitation to labels, signs, prints, packages, wrappers, receptacles, or advertisements intended to be used upon or in conjunction with the sale or other distribution of such goods or services.

(C) Any investigator of the Department of Codes and Regulations may, upon probable cause, without warrant seize goods, labels, signs, prints, packages, wrappers, receptacles or advertisements which contain any reproduction, counterfeit, copy or colorable imitation of a mark registered under KRS 365.560 through KRS 365.625, or under 15 USC Section 1051 through 15 USC Section 1127, and hold them subject to the order of the court before which the owner or one in possession of the property has been charged with violation of this section.

§ 115.364. REVOCATION OR SUSPENSION OF LICENSE. A license issued pursuant to this chapter may be suspended or revoked by Director of the Department of Codes and Regulation subject to appeal pursuant to LMCO § 115.364. A license may be suspended or revoked for the following reasons:

A) Fraud, misrepresentation or false statement contained in the application for a license.

B) Fraud, misrepresentation or false statement made in connection with the selling of goods or offer of services.

C) Any facts of conditions which would justify the denial of the original application.

D) Any violation of this chapter or other applicable Louisville Metro ordinance or regulation provision or State law, rule or regulation.

E) Any felony or misdemeanor conviction for offenses listed in Section 115.356(B)

F) Conducting the business of vending or peddling under this chapter in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

G) This section shall be self-executing and the suspension or revocation shall be effective immediately. The Director of the Department of Codes and Regulation shall give notice of the suspension or revocation of the license and sufficient notice shall be given if either hand-delivered or mailed to the licensee at his/her local address as listed on the licensee's application.

H) It is unlawful for any person whose license has been suspended or revoked to continue in the business of vending or peddling or to keep the license issued to him/her in his/her possession and control, and the same shall immediately be surrendered to the Director of the Department of Codes and Regulations or his/her designee.

§ 115.365. APPEAL.

- (A) Any person aggrieved by the denial of an application for a license or by suspension or revocation of a license as provided for in this chapter, shall have the right to appeal to the Director of the Department of Codes and Regulations such denial, suspension or revocation. The party affected thereby shall have ten (10) business days from the date of receipt of said notice of denial, suspension or revocation to appeal the department's decision by notifying the Director of the Department of Codes and Regulations in writing of the basis for said appeal. The notice of appeal may be hand delivered to the Director or sent certified mail, return receipt requested. Unless a timely notice of appeal is received, the decision of the Director of the Department of Codes and Regulations shall be final.
- (B) When the Director of the Department of Codes and Regulations receives a notice of appeal, he or she shall schedule a time and date for the appeal to be heard before the Code Enforcement Board and such hearing shall be held within thirty (30) calendar days of the date the Director receives the notice of appeal. The Director shall notify the appellant in writing of the hearing date and may send such notice by regular first class mail. The appellant may request an alternate hearing date but in no event shall it be more than thirty (30) days after the originally scheduled date.

§ 115.366. PENALTY.

- (A) Any vendor or peddler engaging in business within Louisville Metro without a valid license issued pursuant to this chapter shall be guilty of a misdemeanor. The penalty for which misdemeanor shall be a fine of not more than \$500.00 and/or incarceration of not more than thirty (30) days. Every day upon which such violation shall occur, or upon which such violation shall continue shall constitute a separate offense.
- (B) Any person, firm or corporation violating any of the provisions of this chapter, other than §115.350(B), shall be subject for the first offense to a \$100 penalty, the second offense shall be subject to a \$300 penalty and the third offense in any two year period shall be subject to a \$500 penalty and the vendor or peddler shall be ineligible for a license under this Chapter for a period of 90 days.

§ 115.353 UNAUTHORIZED USE OF A REGISTERED TRADEMARK.

- ~~—(A)— It shall be unlawful for any person to knowingly, without the consent of the registrant, to:~~

~~— (1) — Sell, or offer for sale or possess, with intent to sell, any advertising, goods or services containing any reproduction, counterfeit, copy or colorable imitation of a mark registered under KRS 365.560 through KRS 365.625, or under 15 USC Section 1051 through 15 USC Section 1127; or,~~

~~— (2) — Reproduce, counterfeit, copy or colorably imitate any such mark and apply such reproduction, counterfeit, copy or colorable imitation to labels, signs, prints, packages, wrappers, receptacles, or advertisements intended to be used upon or in conjunction with the sale or other distribution of such goods or services.~~

~~— (B) — Any investigator of the Department of Codes and Regulations may, upon probable cause, without warrant seize goods, labels, signs, prints, packages, wrappers, receptacles or advertisements which contain any reproduction, counterfeit, copy or colorable imitation of a mark registered under KRS 365.560 through KRS 365.625, or under 15 USC Section 1051 through 15 USC Section 1127, and hold them subject to the order of the court before which the owner or one in possession of the property has been charged with violation of this section.~~

~~§ 115.354 VENDING TO SCHOOL CHILDREN.~~

~~— It shall be unlawful for any person to sell, vend, promote, dispense, distribute, or otherwise convey, any items or merchandise, or offer to do any of the above acts either on foot, from a cart, stand, or kiosk, or by means of a machine or motor vehicle, whether mobile or stationary to school children, within a radius of one block of any public or private school. This section shall not apply to persons, firms, or corporations selling from a regularly established place of business located in a store or other building.~~

~~§ 115.355 GENERAL PROVISIONS.~~

~~— (A) — The Director of Codes and Regulations shall promulgate reasonable rules and regulations in the interest of the health and safety of the public to govern the use and number of such designated public places as referenced in § 115.350, and the Director may place reasonable conditions on the use and enjoyment of any permits that may be issued and may suspend or terminate as necessary for the public good, pursuant to regulations the office shall issue.~~

~~— (B) — The Director of Codes and Regulations is authorized to establish and promulgate a reasonable schedule of classifications and fees for such permits/licenses as shall be issued pursuant to this chapter.~~

~~— (C) — The Director of Codes and Regulations shall be authorized to specify the types and variety of those items and activities as specified in this chapter.~~

~~— (D) — Issuance of a permit/license under this chapter shall not excuse any permittee from compliance with any other applicable ordinance or law.~~

~~—(E)— A copy of the administrative regulations as promulgated by the Director of Codes and Regulations shall be available for public inspection in the offices of the Department of Codes and Regulations.~~

~~§ 115.356 PEDDLER'S LICENSES FOR ACTIVITIES ON PRIVATE PROPERTY.~~

~~—(A)— It shall be unlawful for any person, firm, or corporation, to peddle or solicit on foot or motor vehicle within Metro Louisville without first obtaining a Peddler license from the Department of Codes and Regulations. Peddler in this section means any person who goes upon the premises of any private property, not having been invited by the occupant or owner thereof, for the purpose of selling or of taking or intending to take orders for the sale of goods, wares, merchandise or other personal property of any nature for future delivery.~~

~~—(B)— The provisions of §§ 115.351, 115.352, 115.353, 115.354 and 115.355 shall apply to peddler licenses for activities on private property.~~

§ 115.367 IMMUNITY

Nothing contained in this chapter is intended to be nor shall be construed to create any liability on the part of Louisville Metro or its employees for any injury or damage resulting from the failure of the licensee or permit holder to comply with the provisions of this chapter, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this chapter on the part of Louisville Metro or its employees.

§ 115.35768 SEVERABILITY.

Each section and provision of this chapter is hereby declared to be independent sections and provisions and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of said chapter, or the application thereof to any person or business, is held to be invalid, the remaining sections or provisions and the application of such sections or provisions to any person or business other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid. Additionally, should any license or permit procedure in this chapter be deemed invalid, the substantive regulations, restrictions, and standards contained herein shall not be affected thereby.

~~If any section, subsection, sentence, clause, phrase, or portion of this section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and the holding shall not affect the validity of the remaining portions.~~

SECTION II: This Ordinance shall take effect upon its passage and approval.

Kathleen J. Herron
Metro Council Clerk

David W. Tandy
President of the Council

Jerry E. Abramson
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

BY: _____

LMCO 115.350 Vendors & Peddlers Amended Ord. ROC bkn,tg Draft 1
LMCO 115.350 Vendors, Peddlers & Solicitors Amended Ord. ROC bkn,tg Draft 2

4-8-09
4-14-09